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PATENT

Serial No. 09/817,971

Amendment in Reply to Office Action dated September 6, 2006

REMARKS

This Amendment is being filed in response to the Office Action dated September 6, 2006 which has been reviewed and carefully considered.

Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-29, 32, 33, 36 and 39-41 are pending. The Applicants would like to thank the Examiner for the indication in the Office Action that Claims 1-18, 24-29, 40 and 41 are allowed. Claims 27 and 28 are amended herein to cure obvious errors noted upon review of the claims.

In the Office Action, the Examiner suggested adding headings to the specification. Applicants gratefully acknowledge the Examiner's suggestion, however respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a) or 37 C.F.R. 1.77(b) for that matter. It is respectfully submitted that "should" (as recited in MPEP §608.01(a), 37 C.F.R. 1.77(b) and referred to on page 2, item 2 of

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the Office Action) is suggestive or permissive, and not mandatory as in "must" or "shall". For example, 37 CFR 1.77(b) recites:

The specification should include the following sections in order: (Emphasis added)

Similarly, 37 CFR 1.77(c) recites:

The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type. (Emphasis added)

By contrast, 37 CFR 1.77(b)(5) recites:

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified. (Emphasis added)

Thus, it is respectfully submitted that a distinction is made between "should" and "shall", where "should" is permissive, and "shall" is mandatory. Accordingly, it is respectfully submitted that headings are not required in accordance with MPEP §608.01(a). Accordingly, an indication that the specification is in proper form is respectfully requested.

In the Office Action, Claims 20, 21, 23 and 33 are objected to

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because of alleged informalities. Claim 20 has amended in accordance with the Examiner's suggestions. "It" has been replaced in claims 21, 23 and 33 with "the recorded auxiliary information". Accordingly, it is respectfully submitted that the noted informalities of claims 20, 21, 23 and 33 is corrected and withdrawal of the objection thereto is respectfully requested.

In the Office Action Claims 19 and 20 are rejected under 35 U.S.C. §112, 1st paragraph for allegedly failing to comply with the enablement requirement and are also rejected under 35 U.S.C. §112, 2nd paragraph for allegedly failing to particularly point out and distinctly claim the invention. The Applicants respectfully disagree, however, in the interest of furthering the prosecution and expediting allowance of the present Application, Claims 19 and 20 have been amended. It is respectfully submitted that claims 19, 20, 21 23 and 33 were amended for clarification purposes only and were not been amended to address issues of patentability. Accordingly, the Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. It is respectfully submitted that the rejections under 35 U.S.C. §112, 1st and 2nd paragraphs are moot in light of the amended claim language.

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Accordingly, an indication that the rejections under 35 U.S.C. §112, 1st and 2nd paragraphs are withdrawn is respectfully requested.

In the Office Action, claims 22-23, 32-33, 36, 39 are rejected under 35 U.S.C. §102(b) as being anticipated by European Patent No. EP 0944086 (Inazumi) and by U.S. Patent No. 6,512,882 (Teunissen). It is respectfully submitted that the claims are allowable for at least the following reasons.

Claims 22, 32, 36 and 39 are amended herein to be in independent form including limitations of the claims previously depended thereon. Accordingly, it is respectfully submitted that claims 22-23, 32-33, 36 and 39 are allowable for at least the same reasons as respective claims 1, 24, 27 and 28 as well as for the separately patentable elements contained in each of the claims. Consideration and allowance of each of claims 22-23, 32-33, 36 and 39 is respectfully requested.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

In addition, Applicants deny any statement, position or

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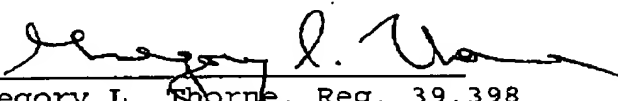
avertment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

It is believed that no additional fees or charges are currently due beyond the charge for four additional independent claims in excess of those previously paid, to be charged to the credit card as noted by the enclosed authorization. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicants' representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to Deposit Account No. 50-3649.

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In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
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November 29, 2006

Enclosure: Authorization to charge credit card \$800 fee for four independent claims in excess of those previously paid

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